IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Bail Appl..No. 4315 of 2007()

C.C.352/06 OF J.F.C.M. COURT, IRINJALAKUDA
AGAINST THE JUDGEMENT/ORDER IN BA.2811/2007 Dated 18/05/2007

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PETITIONER/ACCUSED NO.1

VENU, S/O.KRISHNANKUTTY, ALATHUR
KARUVAN HOUSE, ALATHUR, ANANDAPURAM,
THRISSUR DISTRICT.

BY ADV. SRI.A.C.DEVY

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4315 of 2007

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Dated this the 16th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 7 r/w. 25 of the Arms Act. The petitioner was released on bail in the course of the investigation. Investigation was completed. Final report was filed. Cognizance was taken by the learned Magistrate. The petitioner did not appear before the learned Magistrate. Consequently a warrant of arrest has been issued against the petitioner.

2. According to the petitioner he is absolutely innocent. He was not served with any notice or summons. He was employed abroad. He has now come to know of the case pending against him. He is willing to surrender before the learned Magistrate and seek bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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